

**LONDON BOROUGH OF TOWER HAMLETS****MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON WEDNESDAY, 27 FEBRUARY 2019****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Tarik Khan (Chair)

Councillor Faroque Ahmed

Councillor Zenith Rahman

**Officers Present:**

Mohshin Ali	–	(Senior Licensing Officer)
Nicola Cadzow	–	(Environmental Health Officer)
Kathy Driver	–	(Principal Licensing Officer)
Simmi Yesmin	–	(Democratic Services)

<b>Representing Applicants</b>	<b>Item Number</b>	<b>Role</b>
Niall McCann	4.1	(Legal Representative)
Jonathan Beagle	4.1	(Legal Representative)
James Dong	4.1	(Applicant)

  

<b>Representing Objectors</b>	<b>Item Number</b>	<b>Role</b>
Nicola Cadzow	4.2	(Environmental Health Officer)

**Apologies**

None

**1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST**

No declarations of disclosable pecuniary interests were declared.

**2. RULES OF PROCEDURE**

The Rules of Procedure were noted by the Sub Committee.

### **3. MINUTES OF THE PREVIOUS MEETING(S)**

The minutes of the Licensing Sub Committee meetings held on 8<sup>th</sup>, 22<sup>nd</sup> and 29<sup>th</sup> January 2019 were agreed and approved as a correct record.

### **4. ITEMS FOR CONSIDERATION**

#### **4.1 Application for a New Premises Licence for Sichuan Folk, 32 Hanbury Street, London, E1 6QR**

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a new premises licence for Sichuan Folk, 32 Hanbury Street, London E1 6QR. The application was for the sale of alcohol from 12:00 to 23:00 hours, seven days a week. It was noted that an objection had been received on behalf of the Licensing Authority.

At the request of the Chair, Mr Niall McCann, Legal Representative on behalf of the Applicant explained the concept, layout and types of cuisines sold at the premises. He said this application was merely to reinstate a previous licence that was in place at this premises before the licence lapsed. He also varied the application to reduce the hours applied for on Sundays to 10.30pm. He explained the business had suffered hardship and due to financial pressures didn't check what needed to be done in terms of licensing, this was a technical lapse and they had not been advised to transfer the licence. He explained there hasn't been any representation from the Police, Environmental Health or residents.

He acknowledged that there had been a breach of the Licensing Act 2003 due to pure ignorance and not knowing. Once made aware, the Applicant applied for a licence. It was noted that there were no other problems or complaints associated with the premises and just a technical infringement.

Mr McCann explained that if the application was granted the hours would be shorter than the previous licence, and there would be more measurable and robust conditions in place to help promote the Licensing Objectives. He further explained that there wouldn't be any additional impact as a result of the application and there were genuine exceptional circumstances. It was noted that alcohol would form 10-15% of the weekly sales, the capacity of the premises was 60, however they rarely had above 50 customers at any one time. Also conditions proposed would limit the premises to a restaurant only by proposing no vertical drinking, and alcohol to be ancillary to a meal.

Members then heard from Mr Mohshin Ali, Licensing Officer who referred to his statement on page 93 of the agenda and explained that the Special Cumulative Impact Policy would be strictly applied and where relevant representations are received it is the view of the Council that the application will be refused. Applicants would need to demonstrate that there are exceptional circumstances and that granting their application will not

negatively add to the cumulative effect on the licensing objectives within the Brick Lane CIZ.

He explained that on 17/11/18 Licensing Authority visited the premises at 23:35 hours and found it to be operating with alcohol on display, 14/12/18 Licensing Authority received the current premises application. Then on 15/12/18 Licensing Authority visited the premise at 22.38 hours and were able to purchase alcohol. This sale occurred without a licence and this was being investigated.

He concluded that there was no history of complaints or history of enforcement at the premises. However, he suggested that if Members were minded to grant the application then drinking up time should be considered in the hours applied for.

In response to questions from Members the following was noted;

- The the premise went into liquidation in February 2018 and re-opened in late October 2018.
- The Applicant was only aware in November 2018 that there was no licence and was poorly advised by previous solicitors as to the process of applying for a premises licence.
- That the capacity of premises was for 60 people.
- That the impact on the CIZ would be minimal as there had been a previous licence in place, there were conditions to ensure that the premises does not become at drinking establishment such as no vertical drinking, alcohol ancillary to a meal and no off sales.
- That no history of public nuisance or crime and disorder at the premises.
- That the premises would operate as a restaurant, there would be no drinking outside the premises and the number of smokers would be limited.
- That the hours were within the Council's framework hours, and low alcohol sales of 15%.
- That it was a successful restaurant, with experienced staff and had good reviews.
- There were eight members of staff in total.
- There would be no live or recorded music except for background music.

In conclusion, Mr Ali said that if Members were minded to grant the application then drinking up time should be considered.

Mr McCann concluded by confirming that they were happy to manage drinking up time.

Members adjourned the meeting at 7.10pm to deliberate and reconvened at 7.30pm.

### **The Licensing Objectives**

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

### **Consideration**

Each application must be considered on its own merit. The Sub Committee had carefully considered all of the evidence before them and considered written and verbal representations from both the Applicant's Legal Representative and from the Officer representing the Licensing Authority with particular regard to the licensing objectives of the prevention of public nuisance, and the prevention of crime and disorder.

The Sub-Committee noted that the premises in question are situated in the Cumulative Impact Zone (CIZ). However, Members noted the fact that the hours applied for were within the Council's Framework Hours and noted the Applicant's offer of curtailing the hours applied for to incorporate the 30 minutes drinking up time. Members noted the conditions agreed with the Police and Environmental Health and the conditions offered by the Applicant's operating schedule in particular conditions to ensure that the premises would not become a bar or drinking establishment.

Members did note the concerns raised by the Licensing Authority that alcohol was served without a licence in place, however Members accepted the mitigating circumstances presented on behalf of the Applicant's Representative and not being fully advised by their previous legal advisors. Members also noted the potential public nuisance that licensed premises may cause in an area which already experiences a high level of public nuisance and anti-social behaviour. The Sub Committee were of the view that adding conditions such as no vertical drinking, alcohol to be ancillary to a meal, and restricting the number of smokers outside the premises at any one time would help alleviate concerns raised and help promote the licensing objectives.

Members reached a majority decision. Members granted the application subject to conditions to help promote the licensing objectives.

Accordingly, the Sub Committee unanimously:-

### **RESOLVED**

That the application for a New Premises Licence for Sichuan Folk, 32 Hanbury Street, London E1 6QR be **GRANTED** with conditions.

Sale of Alcohol (on sales only)

Monday to Sunday from 12:00 hrs to 22:30 hrs

Hours premises open to the public

Monday to Sunday from 12:00 hrs to 23:00 hrs

Conditions

1. An incident log book will be maintained by the premises that details incidents of note that occur in the premises. This shall include refused sales, disorder and ejections as a minimum. The log book shall be kept on the premises and management shall regularly check the book to ensure all staff are using it.
2. The CCTV system shall be maintained in good working order and at all times the premises are open to the public, be fully operational covering areas of the premises to which the public have access.
3. The licence holder shall ensure that CCTV cameras and recorders are installed at the premises and are of a standard acceptable to and approved by the Police.
4. CCTV is kept for a minimum of 30 days and made available to Police or other Licensing Authority on request.
5. Signs must be displayed in the customer areas to advise that CCTV is in operation.
6. There shall be no off sales.
7. Customers shall not be permitted to take drinks outside with them.
8. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of the local residents and to use the area quietly.
9. All external doors and windows to the premises shall be kept closed during the provision of regulated entertainment, save during access and egress.
10. A Challenge 25 policy will be enforced, where any person reasonably looking under the age of 25 shall be asked to prove their age when

attempting to purchase alcohol and signs to this effect will be displayed at the premises. The only acceptable forms of identity will be those with photographic identification documents recognised in the Home Office guidance; including passports, photo-card driving licence or proof of age card bearing the PASS hologram.

11. There shall be no vertical drinking. Alcohol will only be sold by waiter/waitress service to customers seated at tables.
12. Alcohol will only be sold ancillary to a meal.
13. Staff will be given training:
  - a. In conflict management in order to give them the knowledge and confidence to deal with difficult situations and reduce crime and disorder at the Premises;
  - b. On the effects of alcohol and how to spot early signs of customers becoming drunk and confidence to deal with drunken patrons; and
  - c. On the appropriate "cut off" points for serving drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.
14. A full risk assessment taking into account public safety will be carried out at the Premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards. A risk assessment will be regularly reviewed at least every 12 months.
15. Loudspeakers shall not be located near doors and windows, or in the entrance lobby or outside the premise building
16. No Music or amplified sound shall be generated on the premises to give rise to a nuisance to neighbouring residents
17. No collections of waste or recycling materials (including bottles) from the premises shall take place between 22:00 hours and 08:00 hours on the following day.
18. No deliveries to the premises shall take place between 22:00 hours and 08:00 hours the following day.
19. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
20. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.

#### **4.2 Application for Variation of a Premises Licence for City Supermarket, 389 Cambridge Heath Road, London, E2 9RA**

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for City Supermarket, 389 Cambridge Heath Road, London E2 9RA. The application was seeking to extend the hours for the sale of alcohol from 6:00 hours to 00:00 hours (midnight), seven days a week. It was noted that objections had been received on behalf of the Licensing Authority and Environmental Health.

The Sub Committee were advised that the Applicant was not present at the meeting and they had not been in contact with Democratic Services or Licensing Services. It was noted that the notification letter was sent to the Applicant 10 working days before the meeting via 1<sup>st</sup> class post to both the premises and home address. The agenda was also sent 5 working days before the meeting via 1<sup>st</sup> class post to both the addresses and copies of both the letter and agenda were also emailed to the Applicant's email address. Despite these correspondences no communication had been made by the Applicant to this date.

Upon receiving this information, the Sub Committee decided to consider the application in the Applicant's absence.

Members noted and considered the written application contained in the agenda pack.

At the request of the Chair, Ms Kathy Driver, Licensing Officer explained that the applicant had failed to address the licensing objectives in their application. She also highlighted the fact that the premises was within the Bethnal Green Cumulative Impact Zone and the effects of this. In addition Ms Driver explained that a visit was made at the premises on 7<sup>th</sup> October 2018 at 00:15 hours of which a bottle of cider was sold. Prior to the sale, the officer witnessed two females also purchasing beer. When the member of staff was approached after the sale, he advised that the premise was busy and therefore continued to sell. The staff member denied being the Designated Premises Supervisor (DPS) however when asked for ID, the driving licence was the same name as the DPS.

Ms Driver stated that there had been a breach of conditions and therefore not satisfied that the Applicant's would abide by hours/conditions and therefore asked for the application to be refused.

Members also heard from Ms Nicola Cadzow, Environmental Health Officer who said that the hours go beyond the Council's framework hours and there was nothing in the operating schedule to convince her, how they would uphold the licensing objectives. She stated that there was a great likelihood of disturbance to residential properties at the noise sensitive hours. That the premise was within the CIZ and there was no sufficient noise mitigating

measures in place to prevent noise generated from within or outside the premise.

The Chair stated that the Premise Licence Holder was not present at the meeting to answer any questions to alleviate their concerns relating the additional hours applied for and the out of hours sales made at the premises?

There were no further questions.

Members adjourned the meeting at 7.45pm to deliberate and reconvened at 7.55pm.

### **The Licensing Objectives**

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

### **Consideration**

The Sub Committee were advised that the Applicant was not present at the meeting and they had not been in contact with Democratic Services or Licensing Services. It was noted that the notification letter was sent to the Applicant 10 working days before the meeting via 1<sup>st</sup> class post to both the premises and home address, they were also emailed a copy of the letter. The agenda was also sent 5 working days before the meeting via 1<sup>st</sup> class post to both the premises and home address and they were also emailed a copy. Despite these correspondences no communication had been made by the Applicant to this date.

Upon receiving this information, the Sub Committee decided to consider the application in the Applicant's absence.

Each application must be considered on its own merit. The Sub Committee had carefully considered all of the evidence before them and considered the application contained in the agenda pack and heard representations at the meeting from Officers representing the Licensing Authority and Environmental Health with particular regard to the licensing objectives of the prevention of public nuisance.

The Sub-Committee took into account the objectors' concerns relating to Bethnal Green Cumulative Impact Zone, public nuisance, and anti-social behaviour in the area if the application were to be granted.

The Sub Committee considered that there was not sufficient evidence in the application to demonstrate the early/late trading hours would be strictly adhered considering the failed test purchase where alcohol was sold outside licensing hours.

Members reached a decision and the decision was unanimous. Members refused the application. The Sub Committee were not satisfied that the Applicant would comply with any additional hours/conditions, given the non-compliance with existing conditions on the licence following the failed test purchase (out of hours sale). The Sub-Committee were of the view that on the balance of probabilities, the premises were more likely than not to negatively add to the area, n that the Sub-Committee was particularly mindful of the licensing objective of preventing public nuisance.

Accordingly, the Sub Committee unanimously;

**RESOLVED**

That the application for a Variation of the Premises Licence for City Supermarket, 389 Cambridge Heath Road, London E2 9RA be **REFUSED**.

**5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003**

There were no applications that required deadline extensions.

The meeting ended at 8.00 p.m.

Chair, Councillor Tarik Khan  
Licensing Sub Committee